IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

OP.No. 31490 of 1999(W)

PETITIONERS:

1. **VARIJAKSHAN NAIR,**
   KOORIATTIL HOUSE,
   ARIYUR (PO), MANNARKKAD COLLEGE(VIA)
   PALAKKAD DISTRICT.

2. **SUBRAMANIAN, S/O. KARUNAKARAN,**
   ARIYUR (PO) MANNARKKAD COLLEGE (VIA),
   PALAKKAD DISTRICT.

3. **MENAKSHI ALIAS MALU,**
   D/O. KUNHIMALUAMMA, ARIYUR P.O.,
   MANNARKKAD COLLEGE (VIA)
   PALAKKAD DISTRICT.

4. **GANGADHARAN, S/O.KARUNAKARAN NAIR,**
   PARIANGATTU HOUSE,
   ARIYUR P.O., MANNARKKAD COLLEGE(VIA),
   PALAKKAD DISTRICT.

5. **CHAMI, S/O.AYYAPPAN, KUNDIL HOUSE,**
   ARIYUR P.O., MANNARKKAD COLLEGE(VIA),
   PALAKKAD DISTRICT.

BY ADV. SRI.K.MOHANAKANNAN

RESPONDENTS:

1. **STATE OF KERALA, REP.BY THE**
   CHIEF SECRETARY, GOVERNMENT OF
   KERALA, SECRETARIAT, TRIVANDRUM.

2. **THE DISTRICT COLLECTOR, PALAKKAD.**

3. **THE TAHSILDAR, MANNARKKAD.**

4. **VILLAGE OFFICER, KOTTAPADAM NO.11 VILLAGE,**
   MANNARKKAD , PALAKKAD DISTRICT.

BY GOVERNMENT PLEADER SRI. THOMAS MATHEW AMBOOKEN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.53592/1999 IN OP. NO.31490/1999

DISMISSED

14.06.2007 **SD/- KURIAN JOSEPH, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE JUDGMENT IN CRP. NO.2195/92 OF THE HONOURABLE HIGH COURT OF KERALA DT. 12.3.97.

EXT.P2:- COPY OF THE STATEMENT FILED BY THE 3RD RESPONDENT IN OP. NO.14273/99 DT.18.6.99.

EXT.P3:- COPY OF THE JUDGMENT IN OP. 14273/99 DT. 22.6.99.

EXT.P4:- COPY OF THE ACT 26 OF 1999 PUBLISHED IN THE GAZETTE DT. 9.8.99.

EXT.P5:- COPY OF THE NEWS ITEM PUBLISHED IN THE MATHRUBHUMI DAILY DT. 26.11.99.

/TRUE COPY/

tss

KURIAN JOSEPH, J.

O.P.No.31490 of 1999

Dated this the 14th day of June, 2007

JUDGMENT

The writ petition is filed mainly with the following prayer:-

> ii) Issue a writ of mandamus or any other appropriate writ, order or direction declaring that the taking possession of land (1.45 acres) by the respondents on 4-6-1999 is invalid by virtue of Section 3(2) of the Stay of Eviction Proceedings Act, Act 26/99.

Act 26/1999 is operative from 31/3/1999, though it is notified only in August 1999, though it is notified only in August 1999. Section 3(2) provides that any action taken in the meanwhile is invalid. Therefore, the contention of the respondents that the land had already been taken possession in June 1999 has no force. Act 25 of 2006 (The Kerala Stay of Eviction Proceedings Act, 2005) is in continuation of Act 26/1999. The petitioners are hence entitled to succeed. Their possession shall not be disturbed, in case they are small holders covered by Act 25 of 2006.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

ahg.

KURIAN JOSEPH, J.

O.P.NO.31490/1999

JUDGMENT

14th June, 2007